



Department of the Treasury Internal  
Revenue Service  
Tax Exempt and Government Entities  
P.O. Box 2508  
Cincinnati, OH 45201

Date:  
08/01/2023  
Taxpayer ID number:  
  
Person to contact:

Release Number: 202343039  
Release Date: 10/27/2023

#### LEGEND

UIL: 4945.04.04

X = Scholarship  
y dollars = amount  
z dollars = amount

Dear :

You asked for advance approval of your scholarship procedures under Internal Revenue Code (IRC) Section 4945(g)(1). You requested approval of your scholarship program to fund the education of certain qualifying students.

This approval is required because IRC Section 4945 provides for the imposition of taxes on each taxable expenditure of a private foundation. IRC Section 4945(d)(3) provides that the term "taxable expenditure" includes any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or similar purposes by the individual, unless the grant satisfies the advance approval requirement of IRC Section 4945(g).

#### **Our determination**

We approved your procedures for awarding scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding scholarships meet the requirements of IRC Section 4945(g)(1). As a result, expenditures you make under these procedures won't be taxable.

Additionally, awards made under these procedures are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provided in IRC Section 117(b)).

#### **Description of your request**

Your letter indicates you will operate a grant making scholarship fund, X. Grants under X will range from y dollars to a maximum of z dollars per recipient. Up to grants will be distributed annually. The exact amount of each grant will be determined at your discretion, based upon the review of each application, the recipient's financial need and requested amount, and other available resources.

You plan to publicize the availability of grants through multiple channels to ensure there is sufficient opportunity for broad participation in X.

Grants will be made to students who are seeking bachelor's, master's, juris doctorate, or doctorate degree

related to the study or practice of law, social justice, criminal justice, or other related disciplines and who will be attending school full time. Funds will only be granted to students applying to accredited colleges and universities within the United States. Children, grandchildren or other close relatives of the your governing body members, substantial contributors or other disqualified individuals (as described in IRC Section 4946) are not eligible for scholarships.

A Selection Committee will use the following criteria to select grant recipients:

1. Career goals that are in-line with the Foundation's mission of promoting social justice and change.
2. Financial need. While no specific documentation is required, an applicant's financial need may be elicited through written or verbal questions during the selection process.
3. Extra-curricular activities that evidence the applicant's commitment to promoting the applicant's commitment to social justice.
4. While there is no minimum GPA required for selection, an applicant's academic achievements may be taken into consideration during the selection process.

Applicants will submit a written personal statement that highlights their academic and extracurricular pursuits as they relate to law, social justice, criminal justice, or related fields, discusses their future plans in such fields and how their goals and interests align with the values of the Foundation.

Finalists will be invited to present their personal statements in-depth and participate in interviews with members of the Selection Committee. The presentation will consist of the finalist discussing their goals, motivations, and how the scholarship would help them achieve their goals. In awarding grants under X, there will be no discrimination on the basis of race, ethnicity gender, national origin, sexual orientation, or religion.

The grants have the potential to be renewed. Each renewal is contingent on the grant recipient's continued enrollment and good standing in an above described educational institution. However, If a grant recipient fails to remain in good standing with his or her educational institution, you may accommodate a grant recipient, if such poor status is a result of extenuating circumstances (for example, a temporary withdrawal due to the illness of a close family member). Such accommodation will be granted at the sole discretion of your governing body on a case-by-case basis

You will disburse scholarship award funds to both educational institutions and scholarship recipients, on a case by case basis.

In cases where funds are disbursed to educational institutions, you will require each such institution to agree to use the grant funds to defray the recipient's qualified tuition and related expenses or to apply the funds otherwise for his or her benefit only if the grant recipient continues to be enrolled at such educational institution and remains in compliance with the institution's academic requirements necessary to obtain the desired educational degree. If a grant recipient fails to enroll, drops out, or fails to remain in compliance with the institution's academic requirements, such institution will be required to return all unused grant funds to you.

Where grant funds are awarded directly to scholarship recipients, you will require each recipient to sign and return an acceptance letter agreeing to the requirements and conditions of the grant before the funds will be awarded. Those requirements and conditions will include:

1. Proof of enrollment at a qualified educational institution as evidenced by providing an official college/university acceptance letter,
2. A commitment to remaining in compliance with such institution's enrollment requirements during the academic year pertaining to the grant award,
3. Provide you with a written narrative report at least once per year describing the recipient's experiences and

accomplishments over the pertaining academic year, and

4. Provide you with a written narrative final report upon completion of study at the educational institution.

In cases of scholarship recipients whose study at an educational institution does not involve the taking of courses but only the preparation of research papers or projects, such as the writing of a doctoral thesis, you will require a brief report on the progress of the paper or project at least once a year. Such a report must be approved by the faculty member supervising the grantee or by another appropriate university official. Upon completion of a scholarship recipient's study at an educational institution, a final report must be provided.

If a recipient fails to submit the required reports described above, or where such reports, or other information, indicates that all or any part of a grant is not being used in furtherance of the intended purposes, you will withhold further payments, to the extent possible, during the course of its investigation of the lack to properly report. In the event of a misuse of funds, you will determine if the situation is a mistake and whether It can be corrected.

If you discover that grant funds have been misappropriated, all reasonable steps will be taken to recover any diverted funds or to ensure that any unused portion is either returned or used for the intended purpose of the grant, as required by Section 53.4945-4(c)(4) of the Treasury Regulations. Further, in any case where you determine that grant funds have been misused, you will refrain from making additional disbursements and take further appropriate action as necessary.

You represent that you will complete the following:

- Arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded,
- Investigate diversion of funds from their intended purposes,
- Take all reasonable and appropriate steps to recover the diverted funds and ensure other grant funds held by a grantee are used for their intended purposes, and
- Withhold further payments to grantees until you obtain grantees' assurances that future diversions will not occur and that grantees will take extraordinary precautions to prevent future diversion from occurring.

You also represent that you will:

- Maintain all records relating to individual grants including information obtained to evaluate grantees,
- Identify a grantee is a disqualified person,
- Establish the amount and purpose of each grant, and
- Establish that you undertook the supervision and investigation of grants described above.

**Basis for our determination**

IRC Section 4945 imposes excise taxes on the taxable expenditures of private foundations. A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study or other similar purposes. However, a grant that meets all the following requirements of IRC Section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is a scholarship or fellowship subject to the provisions of IRC Section 117(a).
- The grant is to be used for study at an educational organization described in IRC Section 170(b)(1)(A)(ii).

**Other conditions that apply to this determination**

- This determination only covers the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures don't differ significantly from those described in your original request.
- This determination applies only to you. It may not be cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes to your program to the IRS at:

Internal Revenue Service  
Exempt Organizations Determinations  
TE/GE Stop 31A Team 105  
P.O. Box 12192  
Covington, KY 41012-0192

- You can't award grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.
- All funds distributed to individuals must be made on a charitable basis and further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with IRC Section 170(c)(2)(B).
- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

We'll make this determination letter available for public inspection after deleting personally identifiable information, as required by IRC Section 6110. We've enclosed Letter 437, Notice of Intention to Disclose - Rulings, and a copy of the letter that shows our proposed deletions.

- If you disagree with our proposed deletions, follow the instructions in the Letter 437 on how to notify us.
- If you agree with our deletions, you don't need to take any further action.

We've sent a copy of this letter to your representative as indicated in your power of attorney.

Please keep a copy of this letter in your records.

If you have questions, you can contact the person shown at the top of this letter.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:  
None